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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,633	06/03/2005	Christopher Temple	SC12418EM	4941

23125 7590 03/18/2009
FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
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EXAMINER

CHRISS, ANDREW W

ART UNIT	PAPER NUMBER
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2419

NOTIFICATION DATE	DELIVERY MODE
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03/18/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USADOCKETING@FREESCALE.COM

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/537,633</p>	<p>Applicant(s) TEMPLE ET AL.</p>	
	<p>Examiner Andrew Chriss</p>	<p>Art Unit 2419</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Hassan Kizou/
Supervisory Patent Examiner, Art Unit 2419

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed February 26, 2009 have been fully considered but they are not persuasive. Applicant states that the combination of Budde and Stacey does not disclose a "time base comprising consecutive timeslots, where each consecutive timeslot comprises at least two sub-time slots and a transmission action point located at a boundary between two of the at least two sub-time slots in the context of the time base." Examiner respectfully disagrees. Budde discloses a Flexray communication system comprising a plurality of communication nodes (Figure 1; paragraph 0038) utilizing dynamic communication slots (Figure 2; paragraphs 0039 and 0040). The communications nodes further comprise a time base (Figure 2) divided into multiple consecutive time slots. The time base is further broken down in time slots, as shown in Figure 2 (e.g., time base 6 broken into sub-time slots 10, 11, 12, and 13). As the sub-time slots are respectively reserved for separate nodes, the transition between each of the sub-time slots comprises a transmission action point (e.g., node 1 commencing transmission at the start of the assigned slot and ceasing transmission when said time slot is over). Applicant further states that the Office action mailed December 26, 2008 "misinterprets the phrase 'such that transmission of each frame of data starts and ends at transmission action points.'" Examiner respectfully disagrees. Stacey discloses dividing a timeslot into multiple mini-slots which can be allocated to user traffic on an individual basis (Figure 2; column 4, lines 37-41), wherein the mini-slots comprise a start field for the start of the frame and a 1-byte guard band to indicate the transmission is ending (Figure 3) (i.e., a transmission action point). Given its broadest reasonable interpretation, claim language "frame" can be interpreted to be a segment of data or traffic generated by a user. There are no requirements in the claim language that further define what a frame comprises aside from transmission starting and ending at a transmission action point. Regarding Applicant's argument that Stacey does not disclose a frame start field, Examiner notes that Stacey is not relied upon to teach this limitation. In response to applicant's argument that the proposed modification cannot change the principle of operation of a reference, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Stacey discloses that packetization delays in ATM networks "represent a significant and sometimes unacceptable proportion of any delay budget" (column 2, lines 35-38). Therefore, the motivation to combine cited above for combining Stacey with Budde is supported by the prior art.